

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KENDALL McCOOK and
VIRGINIA McCOOK,

Plaintiffs,

vs.

Civ. No. 99-1362 WWD/DJS ACE

SPRINGER SCHOOL DISTRICT, SPRINGER
BOARD OF EDUCATION, JERRY ROBBINS,
FREDDIE CARDENAS, DAVID GUTIRREZ,
CARLOS CRAIG, RAY McFALL and ANDRES
EBELL, in their individual and official capacities,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiffs' Motion for Leave of Court to File Second Amended Complaint [docket no. 60]. For the reasons set out below, I find that the motion should be granted in part.

Plaintiffs' request to delete Counts I and II dealing with reverse racial discrimination under Title VII and racial discrimination under 42 U.S.C. §1981 (collectively paragraphs 39-49) is GRANTED.

Plaintiffs' "request to amend their complaint to clarify that their procedural due process claims encompasses the Defendants' failure to hire Mr. McCook" (paragraphs 50-53 of the proposed Second Amended Complaint) has been withdrawn; accordingly, that request to amend is DENIED.

The amendments sought in paragraphs 1, 2 and 3 of the Second Amended Complaint for Violation of Civil Rights are GRANTED. The motion to amend Count I - retaliation for the exercise of First Amendment rights under §1983 - by inserting "all Defendants" in paragraph 39 and deleting the named Defendants in that paragraph is DENIED. I have already entered summary judgment in favor of Defendant Robbins who is the only Defendant not specifically named in Paragraph 39.

On or before December 4, 2000, Plaintiff shall file a Second Amended Complaint which conforms to the provisions of this Order.

This cause shall proceed in accordance with the foregoing.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE